



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/594,955	06/15/2000	Ralph F. Conley JR.	DBT-002	9875

7590

10/01/2003

Steven J Rosen  
4729 Cornell Road  
Cincinnati, OH 45241

EXAMINER

BLAIR, DOUGLAS B

ART UNIT

PAPER NUMBER

2142

DATE MAILED: 10/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/594,955

Applicant(s)

CONLEY, RALPH F.

Examiner

Douglas B Blair

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 28, 36, 40, 41, and 49 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,219,696 to Wynblatt et al..
3. As to claim 36, Wynblatt teaches messaging software for producing and sending a message that appear of the screen on the screen of end-user computers (col. 2, lines 22-48), said messaging software stored in a server computer accessible via a network (col. 2, lines 22-48), said messaging software comprising: a means for inputting the message to be transmitted to and displayed on the end-user computers (col. 2, lines 22-48), said banner software is in machine readable format having a banner display means for displaying a banner on a screen on an end-user computer (col. 3, lines 66-67 and col. 4, lines 1-9), said banner display means having a menu display means for presenting a menu of navigation options when an end-user clicks on said banner, and at least a portion of said navigation options are URLs on a network to which the end-user computer is connectable (col. 4, lines 62-67 and col. 5, lines 1-8), and a means for displaying the message when the banner is displayed on a screen on an end-user computer (col. 5, lines 9-33).

Art Unit: 2142

4. As to claims 1 and 41, they have the same limitations as claim 36 and are rejected for the same reasons as claim 36.

5. As to claim 40, Wynblatt teaches publishing software for producing and changing banner software, said publishing software stored in a server computer accessible via a network (col. 5, lines 49-60), said publishing software comprising: a template means for selecting navigation options for the banner software (col. 5, lines 49-67 and col. 6, lines 1-25), wherein the banner software is in machine readable format having a banner display means for displaying a banner on a screen on an end-user computer (col. 2, lines 22-48), said banner display means having a menu display means for presenting a menu of navigation options when an end-user clicks on said banner, and at least a portion of said navigation options are URLs on a network to which the end-user computer is connectable (col. 4, lines 62-67 and col. 5, lines 1-8), a means for storing the banner software on the server computer (col. 2, lines 22-48), and a means for distributing the banner software from the server computer to said end-user computer (col. 2, lines 22-48).

6. As to claims 28 and 49, they feature the same limitations as claim 40 and are rejected on the same basis as claim 40.

7. Claims 1-4, 7-19, 21-27, 28-29, 31-34, 36-37, and 40-53 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,182,050 to Ballard.

8. As to claim 36, Ballard teaches messaging software for producing and sending a message that appear of the screen on the screen of end-user computers, said messaging software stored in a server computer accessible via a network (col. 6, lines 25-39), said messaging software comprising: a means for inputting the message to be transmitted to and displayed on the end-user computers (col. 11, lines 1-27), said banner software is in machine readable format having a

Art Unit: 2142

banner display means for displaying a banner on a screen on an end-user computer, said banner display means having a menu display means for presenting a menu of navigation options when an end-user clicks on said banner (col. 10, lines 1-25), and at least a portion of said navigation options are URLs on a network to which the end-user computer is connectable, and a means for displaying the message when the banner is displayed on a screen on an end-user computer (col. 10, lines 1-25).

9. As to claims 1 and 41, they have the same limitations as claim 36 and are rejected for the same reasons as claim 36.

10. As to claim 2, Ballard teaches the software of claim 1, further comprising a means for monitoring end-user's behavior regarding accessing said banner, a means for maintaining local event statistics database of said end-user's behavior regarding accessing said banner, and a means of transmitting information in said local event statistics database to a server computer on said network (col. 8, lines 7-21).

11. As to claim 3, Ballard teaches the software of claim 2 wherein said local event statistics database includes the number of times said banner was accessed by the end-user (col. 8, lines 7-21).

12. As to claim 4, Ballard teaches the software of claim 3 wherein said local event statistics database further includes URL's on a network to which end-user computer has been directed through a choice from said menu of navigation options (col. 10, lines 1-25).

13. As to claim 7, Ballard teaches the software of claim 1 wherein said options further include one or more addresses to files stored on fixed storage means for fixedly storing files on the end-user computer (col. 12, lines 41-67).

Art Unit: 2142

14. As to claim 8, Ballard teaches the software of claim 7 wherein said fixed storage means include hard drives and CD-ROM drives (col. 6, lines 1-23).

15. As to claim 9, Ballard teaches the software of claim 1 further comprising a means for detecting a network connection and executing a transaction with a network server to determine if at least one of said banner and said navigation options should be updated (col. 11, lines 1-27).

16. As to claim 10, Ballard teaches the software of claim 9 further comprising a means for updating said banner and said navigation options (col. 11, lines 1-27).

17. As to claims 11-13, they feature the same limitations as claims 2-4 and are rejected for the same reasons as claims 2-4.

18. As to claims 14-15, they feature the same limitations as claims 7-8 and are rejected for the same reasons as claims 7-8.

19. As to claim 16, Ballard teaches the software of claim 1 further comprising a banner updating means for allowing a publisher to change said navigation options.

20. As to claims 17-19, they feature the same limitations as claims 2-4 and are rejected for the same reasons as claims 2-4.

21. As to claims 21-22, they feature the same limitations as claims 7-8 and are rejected for the same reasons as claims 7-8.

22. As to claim 23, it features the same limitations as claim 9 and is rejected for the same reasons as claim 9.

23. As to claim 24, it features the same limitations as claim 10 and is rejected for the same reasons as claim 10.

Art Unit: 2142

24. As to claims 25-27, they feature the same limitations as claims 2-4 and are rejected for the same reasons as claims 2-4.

25. As to claim 40, Ballard teaches publishing software for producing and changing banner software, said publishing software stored in a server computer accessible via a network, said publishing software comprising: a template means for selecting navigation options for the banner software (col. 10, lines 1-25), wherein the banner software is in machine readable format having a banner display means for displaying a banner on a screen on an end-user computer (col. 10, lines 1-25), said banner display means having a menu display means for presenting a menu of navigation options when an end-user clicks on said banner, and at least a portion of said navigation options are URLs on a network to which the end-user computer is connectable (col. 10, lines 1-25), a means for storing the banner software on the server computer, and a means for distributing the banner software from the server computer to said end-user computer (col. 8, lines 63-67 and col. 9, lines 1-21).

26. As to claims 28 and 49, they feature the same limitations as claim 40 and are rejected on the same basis as claim 40.

27. As to claim 29, it features the same limitations as claim 7 and is rejected for the same reasons as claim 7.

28. As to claim 31, Ballard teaches the software of claim 28 further comprising a banner selection means for selecting a banner image file for the banner display means to display as the banner (col. 13, lines 3-25).

Art Unit: 2142

29. As to claim 32, Ballard teaches the software of claim 28 further comprising an installation means for installing the banner software in an application (col. 8, lines 63-67 and col. 9, lines 1-21).

30. As to claim 33, it features the same limitations as claim 10 and is rejected for the same reasons as claim 10.

31. As to claim 34, Ballard teaches the software of claim 33 further comprising an alerting means for alerting the end-user that the banner software has been changed on the end-user computer (col. 12, lines 30-67).

32. As to claim 37, it features the same limitations as claim 34 and is thus rejected for the same reasons as claim 34.

33. As to claims 42-48, they feature the same limitations as claims 2-4, 7-8 and 10-11, respectively and are thus rejected for the same reasons as claims 2-4, 7-8 and 10-11.

34. As to claims 50-51, they feature the same limitations as claims 10-11 and are rejected for the same reasons as 10-11.

35. As to claim 52, Ballard teaches the system of claim 51, further comprising messaging software operable on said server computer for producing and sending a message that appears on the screen of end-user computers having said banner software installed and a means for displaying said message when said banner is displayed on a screen on an end-user computer (col. 11, lines 1-27).

36. As to claim 53, it features the same limitations as claim 34 and is thus rejected for the same reasons as claim 34.



Art Unit: 2142

37. Claims 56-57 and 61-62 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,493,702 to Adar et al..

38. As to claim 56, Adar teaches software stored in machine readable format comprising: a means for displaying an icon on a screen on an end-user computer said icon operable to launch the software (col. 6, lines 35-46), a means for accessing and displaying data on said end-user computer (col. 6, lines 35-46), a means for detecting a network connection and executing a transaction with a network server to determine if at least some of said data should be updated (col. 6, lines 35-46), a means for executing said transaction and updating said data, and an alerting means for alerting an appearance of said icon on said screen after said data is updated (col. 6, lines 35-46).

39. As to claim 57, Adar teaches the software as claimed in claim 56 wherein said data is stored on said end-user computer (col. 6, lines 35-46).

40. As to claim 61, Adar teaches the software as claimed in claim 56 wherein said alerting means further comprises a means of returning appearance of said icon on said screen to an unaltered appearance after updated data has been displayed on said screen, said altered appearance being the same as before said appearance was altered (col. 6, lines 35-46).

41. As to claim 62, Adar teaches the software as claimed in claim 61 wherein said data is stored on said end-user computer (col. 6, lines 35-46).

***Claim Rejections - 35 USC § 103***

42. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2142

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

43. Claims 2-4, 11-13, 17-19, 25-27 and 42-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,219,696 to Wynblatt et al. in view of U.S. Patent Number 5,960,409 to Wexler.

44. As to claim 2, Wynblatt teaches claims 1, 28, 36, 40-41, and 49; however Wynblatt does not teach a statistical database.

Wexler teaches software comprising a means for monitoring end-user's behavior regarding accessing a banner, a means for maintaining a local event statistics database of the end-user's behavior regarding accessing the banner (col. 5, lines 24-45), and a means of transmitting information in the local event statistics database to a server computer on a network (col. 5, lines 66-67 and col. 6, lines 1-9).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of invention to combine the teachings of Wynblatt regarding displaying banners with the teachings of Wexler regarding the tracking of end-user statistics because statistics provide advertisers with useful information (Wexler, col. 2, lines 20-29).

45. As to claim 3, Wexler teaches software wherein a local event statistics database includes the number of times a banner was accessed by the end-user (col. 5, lines 66-67 and col. 6, lines 1-9).

46. As to claim 4, Wexler teaches software wherein a local event statistics database further includes URLs on a network to which end-user computer has been directed (col. 5, lines 24-65).

Art Unit: 2142

47. As to claims 11-13, 17-19, 25-27 and 42-44, they feature the same limitations as claims 2-4 and are rejected on the same basis as claims 2-4.

48. Claims 5-6 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,219,696 to Wynblatt et al. in view of U.S. Patent Number 5,960,409 to Wexler in further view of U.S. Patent Number 5,742,768 to Gennaro et al..

49. As to claim 5, the teachings of the Wynblatt-Wexler combination combine to make claim 2 obvious; however neither Wynblatt nor Wexler teach the use of nested menus.

Gennaro teaches the use of nested menus in a menu of navigation options (col. 5, lines 6-42).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of the Wynblatt-Wexler combination regarding a system for displaying banners with the teachings of Gennaro regarding the nesting of menus because menus provide a user with an easy and efficient way to access a webpage (Gennaro, col. 5, lines 27-42).

50. As to claim 6, the teachings of the Wynblatt-Wexler combination combine to make claim 2 obvious; however neither Wynblatt nor Wexler teach the use of cascaded menus.

Gennaro teaches the use of cascaded menus in a menu of navigation options (col. 5, lines 6-42).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of the Wynblatt-Wexler combination regarding a system for displaying banners with the teachings of Gennaro regarding the cascaded of menus

Art Unit: 2142

because menus provide a user with an easy and efficient way to access a webpage (Gennaro, col. 5, lines 27-42).

51. As to claim 20, it features the same limitation as claim 5 and is rejected for the same reasons as claim 5.

52. Claims 5-6 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,182,050 to Ballard in view of U.S. Patent Number 5,742,768 to Gennaro et al..

53. As to claim 5, Ballard teaches claim 2; however, Ballard does not explicitly teach the use of nested menus.

Gennaro teaches the use of nested menus in a menu of navigation options (col. 5, lines 6-42).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Ballard regarding a system for displaying banners with the teachings of Gennaro regarding the nesting of menus because menus provide a user with an easy and efficient way to access a webpage (Gennaro, col. 5, lines 27-42).

54. As to claim 6, Ballard teaches claim 2; however, Ballard does not explicitly teach the use of cascaded menus.

Gennaro teaches the use of cascaded menus in a menu of navigation options (col. 5, lines 6-42).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Ballard regarding a system for displaying banners with the teachings of Gennaro regarding the cascaded of menus because menus provide a user with an easy and efficient way to access a webpage (Gennaro, col. 5, lines 27-42).

Art Unit: 2142

55. As to claim 20, it features the same limitation as claim 5 and is rejected for the same reasons as claim 5.

56. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,182,050 to Ballard in view of U.S. Patent Number 6,587,127 to Leeke et al..

57. As to claim 30, Ballard teaches the software of claim 29, however Ballard does not explicitly teach options including email addresses.

Leeke teaches software providing one or more e-mail address to send e-mail regarding a banner advertisement (col. 7, lines 17-30).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Ballard regarding a system for displaying banner advertisements with the teachings of Leeke regarding the use of e-mail addresses because e-mail provides a more direct manner of feedback (Leeke, col. 7, lines 17-30).

58. Claims 35, 38-39, and 54-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,182,050 to Ballard in view of U.S. Patent Number 6,493,702 to Adar et al..

59. As to claim 35, Ballard teaches the software of claim 28; however Ballard does not explicitly teach the use of an icon.

Adar teaches an alerting means for alerting the end-user that software has been changed on the end-user computer (col. 6, lines 35-46).

It would have been obvious to one of ordinary skill in the Computer networking art at the time of the invention to combine the teachings of Ballard regarding a system for displaying

Art Unit: 2142

banner advertisements with the teachings of Adar regarding icons because icons attract a computer user's attention (Adar, col. 6, lines 35-46).

60. As to claims 38 and 54, they feature the same limitations as claim 35 and thus rejected for the same reason as claim 35.

61. As to claims 39 and 55, the icon is considered a button therefore claims 39 and 55 are also rejected for the same reasons as claim 35.

62. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,571,245 to Huang et al. in view of U.S. Patent Number 6,493,702 to Adar et al..

63. As to claim 56, Huang teaches software stored in a machine readable format comprising: a means for displaying an icon on a screen on and end-user computer said icon operable to launch the software (col. 6, lines 8-15), a means for accessing a displaying data on said end-user computer, a means for detecting a network connection and executing a transaction with a network server to determine if at least some of said data should be updated, a means for executing said transaction and updating said data (col. 12 ,lines 1-34); however Huang does not teach an alerting means for altering an appearance of said icon on said screen after said data is updated.

Adar teaches an alerting means for altering an appearance of an icon on a screen after data is updated (col. 6, lines 35-46).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Huang regarding a software for updating data with the teachings of Adar regarding altering an icon after an update because an altered icon attracts a user's attention (Adar, col. 6, lines 35-46).

Art Unit: 2142

64. As to claim 57, Adar teaches data stored on an end-user computer (col. 6, lines 35-46).

65. As to claim 58, Huang teaches data being email (col. 4, lines 47-67).

66. As to claim 61, Adar teaches software for alerting means further comprises a means of returning appearance of said icon on said screen to an unaltered appearance after updated data has been displayed on said screen, said altered appearance being the same as before said appearance was altered (col. 6, lines 35-46).

67. As to claims 62-63, they feature the same limitations as claims 57 and 58 and are rejected for the same reasons.

68. As to claim 64, Huang teaches a targeted message displayed on the screen (col. 4, lines 47-67).

69. Claims 59-60 and 65-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,571,245 to Huang et al. in view of U.S. Patent Number 6,493,702 to Adar et al. in further view of U.S. Patent Number 5,623,679 to Rivette et al.

70. As to claim 59, the Huang-Adar combination makes claim 56 obvious; however neither Huang nor Adar explicitly teach the use of colors for changing icon appearance.

Rivette teaches altering the appearance of an icon by changing the color (col. 33, lines 47-67 and col. 34, lines 1-3).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of the Huang-Adar combination regarding updating of software with the teachings of Rivette regarding the changing of icon colors because color is a very noticeable part of icon appearance (Rivette, col. 33, lines 47-67 and col. 34, lines 1-3).

Art Unit: 2142

71. As to claim 60, changing color is considered highlighting therefore claim 60 is rejected for the same reasons as claim 59.

72. As to claims 65 and 66, they feature the same limitations as claims 59 and 60 and are rejected for the same reasons as claims 59 and 60.

*Conclusion*

73. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas B Blair whose telephone number is 703-305-5267. The examiner can normally be reached on 8:30am-5pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Powell can be reached on 703-305-9703. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3800.

Douglas Blair

DBB

MARC D. THOMPSON  
MARC THOMPSON  
PRIMARY EXAMINER